



California Association of Resource Conservation Districts

SOLUTIONS FROM THE ROOTS UP

September 30, 2004

Department of Water Resources
Division of Planning & Local Assistance
ATTN: Tracie Billington
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COMMENTS ON PROPOSITION 50 PROPOSED GRANT GUIDELINES

Dear Ms. Billington,

The California Association of Resource Conservation Districts represents 102 special districts created by the *Public Resources Code*. This enabling legislation allows RCDs to perform all manner of work on California's natural resources, including watershed planning and improvements. These 102 RCDs cover approximately 85% of all the land in California, including the vast majority of coastal watersheds and inland areas. RCDs are not fiscally supported by the State of California but are considered agents of the state for contracting purposes.

We thank you for the opportunity to comment on the Draft Guidelines. While these bond funds appear to offer some good opportunities for working on our watersheds, we have several concerns and suggestions we would like to bring to your attention regarding the guidelines as drafted.

1. IRWM- Limits planning efforts to a 50% match. This is an unacceptable restriction for this essential element. Coastal planning in particular is likely to be negatively impacted by this restriction. We were unable to find any justification for this restriction. While we agree that implementation grants for on-the-ground work are valuable, adequately funded planning is crucial to those efforts. It will be nearly impossible for RCDs, small non-profits, and fiscally restricted municipalities and counties to fund this sort of match. CARCD recommends that this element of the grant be funded at least 75-90%.
2. Limiting integrated and regional planning efforts to \$500,000 is unrealistic if comprehensive planning in coastal areas is the goal. My home RCD performed watershed planning for a small, discrete watershed (Carlsbad) in the San Diego County area. This study alone costs nearly a quarter of a million dollars. Regional planning for this area would more adequately be funded at double or triple the proposed grant amount. CARCD recommends this amount be increased between \$750,000 and \$1Million.

3. Funding “Match” is not adequately defined. RCDs can contribute non-cash match at the local level by providing staff time and office overhead as part of this requirement just as a state agency can. CARCD recommends that match include non-cash local funding by RCDs.
4. Giving preference to state priorities ignores local priorities. Input from local citizens and governments is just as important if not more so than state priorities, although the two can often coincide to some degree. RCDs have generated local input on natural resource issues for over 50 years and realize its importance. This input may not have necessarily led to formal planning documents at any given point in time. Localities should not be penalized if they have not performed extensive local planning nor have integrated planning documents.
CARCD recommends that local priorities, as determined by things like stakeholder meetings, be given preference, perhaps as much as 20-40%.
5. The requirement that formal adoption by all participants in the IRWM is unrealistic when dealing with high population areas and extremely large geographic areas. This would unnecessarily impede work in many urban areas and in large geographic areas like San Bernardino County. Participants from non-profits and other small groups may no longer be in existence and newly elected officials may have differing views about the IRWM. One cannot reasonably anticipate full, formal adoption by all who participated in the original IRWM.
CARCD recommends that only a plan or schedule for adoption be required, not formal adoption as a condition for a grant.
6. IRWM implementation grants should be open to all local governments, including RCDs, not just regional or state groups. Sometimes one local group like the RCD has the largest and most comprehensive view of the watershed and its issues. The Guidelines appear to mandate that a regional agency be the applicant.
CARCD agrees that partnership on these grants is a good idea but restricting applications to all but the largest applicants is unworkable and we recommend that any local government or special district be allowed to apply and be specifically included in the definition of “Public Agency”.
7. Complete limitation of litigation rights is inappropriate. One may not nor should they waive all litigation rights against the funding entities.
CARCD recommends this section be more clearly stated that ‘funding from these grants may not be used to litigate against SWQCB, RWQCB or DWR’ so as to conform to similar legal restrictions of other funding agencies.
8. Technical reviewers should not be limited to state agencies.
CARCD recommends that the Natural Resources Conservation Service (USDA NRCS) be included as technical reviewers. NRCS has been providing technical assistance to California for over 50 years and is a highly qualified reviewer. Other federal agencies should be included as well, including US Forest Service, NOAA, BLM and others whose interests overlap with the watersheds that are the subject of these grants. This should also include California Department of Food & Agriculture and other agencies in the state who deal with landowners.

9. Grants should be signed as quickly as possible to avoid grantees incurring extra fees and subcontractor costs. SWQCB and its regional boards are infamous for lengthy delays in contract execution, sometimes taking as long as 3 to 5 years. In several instances, contracts have been delayed over polemics, apostrophes and such other grammatical preferences by the grant processor.
CARCD recommends that there be a firm 90-day turn around for execution of contracts.
10. In order to fully harmonize the suggestion above, SWQCB and RWQCB specifically shall not unilaterally impose new deliverables or other substantial changes to executed contracts as they increase the costs of the grantee that were not anticipated at the time of application.
CARCD recommends that NO changes in executed contracts be allowed unless agreed to by both parties, other than requests for extensions made by the grantee, if through no fault of their own, delays have taken place. Then the grantors, if allowed by law, shall grant reasonable extensions.
11. In order to fully harmonize #8 and #9 above, Grantors must agree to process payments in a timely fashion, taking no longer than 30 days after being presented with properly prepared invoices. Unreasonable delays for minor issues should not be allowed. All but the largest grantees require prompt payment to ensure an adequate cash flow to pay employees and other providers of service.
CARCD recommends that uniform invoice forms and payment requirements be developed to facilitate rapid payment.
12. Priority funding should be given to RCDs rather than non-profits. RCDs under Division 9 of the *Public Resources Code* are agents of the state when contracting with the state and should be viewed on an equal footing with other agencies of the state.
13. Critical Coastal Areas Program is not adequately defined.
14. Modification requirements of river or stream channel places an unreasonable burden on applicants having to 'fully mitigate any environmental impact'. Changes to rivers or stream channels will be nearly impossible as there are almost always items that cannot be fully mitigated nor can all impacts be anticipated at the time of application. For instance some fish kills may not be avoidable, due to stream flows, temperature, 3rd party actions and thus could not be fully mitigated. Grantees must not be asked to perform impossible tasks.
CARCD recommends that this requirement be changed to 'reasonable mitigation, if possible, of anticipated environmental impacts.'

Overall, we believe the requirements for these funds are overly complicated and place an unfair burden on RCDs and other agencies with limited fiscal support, even though they are often the best and most knowledgeable agencies to perform the work. The amount of preparation, research and documentation required for these grants is burdensome and will disqualify all but the best-funded agencies and municipalities. We do not believe the intent of the voters was to fund state agencies, who can meet these burdensome requirements, as opposed to local agencies and groups who can most adequately respond to local needs.

We strongly recommend consultation or review of the CalFed grants program being administrated by the Department of Conservation. The program has reasonable grant preparation requirements, while focusing on the goals of watershed planning and implementation. DOC also has a proven track record for execution of contracts and payments, all done in a very timely fashion while getting the work done. We would hope that other agencies could find out how this program works and why the grant applicants are satisfied with the program.

We believe that the guidelines must emphasize the goals of the work rather than needlessly bog one down in the application process. We also cannot emphasize strongly enough that these grants must be handled in a more timely and professional manner than has been done by SWQCB in the past. We have had much better reports and successes in dealing with DWR. This means the application requirements should be streamlined, uniform documents for invoicing and contracting should be developed prior to funding these grants, and that grant managers and grant reviewers be required to have adequate technical training in the subjects of the contracts. We cannot abide by needless and costly delays caused by the lack of preparation and training.

The people of California who voted for these bond funds must see the anticipated planning and implementation being carried out by their local agencies and groups in a reasonable fashion, not the top-down, highly complex approach that these guidelines suggest. We are more than willing to offer any assistance necessary to improve the current system or proposed guidelines to improve delivery of the programs. Kindly contact me if you wish further clarifications or information.

Very truly yours,

(Emailed, not signed with original signature)

Nadine L. Scott
President

Cpy: Secretary Tamminen, Secretary Chrisman, Secretary Kawamura, O'Bryant